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February 25, 2013

Via ECFS
Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Re: Reply Comments of Community Competitors Coalition in GN Docket No. 12-353

Dear Ms. Dortch:

Pursuant to 47 C.F.R. §§ 1.415 and 1.419, and on behalf of my client Community Competitors Coalition, Inc. ("C3"), please find attached opening comments of C3 regarding the petitions filed by AT&T and NTCA in GN Docket No. 12-353. These comments have been filed via ECFS. Please contact me with any questions.

Respectfully submitted,

Kristopher E. Twomey
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Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of	)	
AT&T and NTCA Petitions on Transition	)	GN Docket No. 12-353
from Legacy Transmission Platforms to	)	
Services Based on Internet Protocol	)	

Reply Comments of the
Community Competitors Coalition

I. Introduction and Summary

The existence of over 100 opening sets of comments filed in this docket emphasizes the importance of the questions raised by the AT&T and NTCA petitions. Many commenters have sought to expand the scope of issues to be discussed in any subsequent proceeding. The Community Competitors Coalition ("C3") agrees that the time has come for these bold questions and important issues to be discussed. There are many regulations currently in place that do nothing to further the public interest and they should be eliminated. The Commission should be wary, however, of eliminating the rules that have allowed competition to form in wireline services. With every policy proposal, the Commission should consider what the competitive impact would be. Anything that hinders competition reduces choices and increases prices for consumers. As such, many of the self-serving comments seeking to further frustrate CLECs' ability to compete in an already challenging and frustrating market should be ignored. Instead, the Commission should expand interconnection and consider a simple solution—structural separation of the ILECs' retail and network operations.

II. First, Do No Harm to Competition

Many commenters proposed a list of principles. C3 suggests the Commission use a simple policy filter elevating competition to the primary goal. The dramatic changes to the broadband and voice industry consistently noted by commenters directly result from competition. As a central tenet of the Telecom Act, creating and supporting competition should be the primary concern of the Commission when considering changes to future policies. So as consideration begins on the proposals that may be part of a future notice of proposed rulemaking, the Commission should choose them based on an overriding policy concern of "first, do no harm" to competition.

III. Break the Landline Duopoly

C3's members are precisely the types of companies that the Telecom Act envisioned bringing competition to the former ILEC monopolies. They are local companies providing broadband and voice services that are lower priced and higher quality than those provided by the ILEC or cable company. Instead, partially through a result of Commission policies rejecting intramodal competition, the intent of the Act has not been fully realized. The general idea was to allow competitors access to networks until they had enough customers such that it would make economic sense to build their own networks. That is good policy and has supported the business plan of C3's members to the benefit of the communities they serve. The Commission need not accept a wireline market dominated by an ILEC/cable duopoly and should consider methods to break this reality and reject suggestions to entrench it further.

ILECs have consistently promised that they will deliver more fiber into their networks as long as they are not required to share that network with competitors. Now, several ILECs are raising the threat that they will refuse to do so if required to maintain the "legacy POTS infrastructure." That is illogical on many fronts. ILECs deploy fiber-based services where they believe they can make the best return on the investment. Despite rosy promises by AT&T to deploy additional U-verse markets, and Verizon's occasional suggestions to build more FiOS, the simple fact is that they will do so only in the markets where it is profitable. It is the market—their strategy has nothing to do with any regulatory incentives or disincentives. Verizon sold entire states of its former incumbent territory where it deemed fiber could not be profitably deployed. AT&T considered doing the same, but apparently decided it was bad public relations and/or could not find any buyers. After all, the experience of the new owners of Verizon's former incumbent territories has not been particularly successful. The Commission should reject any proposals that seek to bully policymakers into granting the ILECs additional monopoly power.

This is particularly so concerning AT&T's suggestion to have a trial whereby interconnection obligations are eliminated. The Commission should forcefully reject any policy suggestions that decrease interconnection. Instead, the Commission should look at the wireline marketplace, recognize any past mistakes that have led to duopolies in most markets, and seek to remedy that. In fact, the Commission should seek to *increase* the methods of interconnection, not further limit them. The Commission should reconsider all its decisions on interconnection: access to ILEC fiber, "open access" to cable networks, IP interconnection, elimination of the §251(f) rural exemption from interconnection, etc.

IV. Structural Separation

The ILECs continue to complain about their POTS network—the copper and central office network infrastructure that was built with a government guarantee of profitability. As many commenters noted, this "legacy infrastructure" is critical to how the entire telecommunications system works in this country. ILECs deploying fiber continue to rely on it and will do so for several decades. The legacy network is burdened with rules they do not like, pensions and health care costs of unionized workers, and pesky competitors that depress potential profits.

Perhaps the ILECs should be granted the elimination of these troubles through a simple, elegant, solution—structural separation of the ILECs' retail and wholesale operations. It would have to be done with care and many detailed issues would need to be resolved over time. The wholesale operations would be spun off into separate business units and sold. State public utility commissions would be responsible for tightly regulating the network infrastructure and set reasonable, market-based prices for access to it. The ILECs would cease to be "ILECs" and could operate as pure retail providers thereby granting them the "level playing field" they have demanded. In turn, it would finally create a level playing field for existing CLECs and encourage additional competitors to enter the wireline market.

The process of structural separation would no doubt be very difficult to implement and many critical issues will need to be addressed. That is not a reason to forego pursuing the policy. For example, last year, Australia recognized the lack of competition and determined to engage in the structural separation of its incumbent

provider Telstra.[1] The process took years to negotiate and will take several more years to be completed in Australia, but it will be accomplished and the country will be rewarded by better services, lower prices, and near universal fiber-based broadband availability.

V. Conclusion

C3 commends the Commission for soliciting comments and appointing a task force to address these important issues. The time has come to ask the big questions and to propose bold solutions.

Respectfully submitted,

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[1] See the following webpage for more information: http://www.dbcde.gov.au/broadband/national_broadband_network/telecommunications_regulatory_reform_separation_framework